



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,607	08/11/2003	Masaru Noro	116503	3730

25944 7590 10/06/2005

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

HUYNH, KHOA D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/637,607	Applicant(s) NORO ET AL.	
	Examiner Khoa D. Huynh	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 08/11/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the expansible bogie-fastening element that stands up and retract backward as recited in claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because legal phraseology such as "The present invention relates" or "In an embodiment of the invention". Correction is required. See MPEP § 608.01(b).
3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the expansible bogie-fastening element that stands up and retract backward as recited in claim 6.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 6 calls for "the expansible bogie-fastening element...that stands up and retract backward when it is released from the pressure exerted the wheel". The mete and bound of such claimed subject matter was not clearly described in the Detailed Description of a Preferred Embodiment so as to enable a skilled person to make and/or use the invention.

Art Unit: 3751

6. Claims 7-9 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the use of a seat unit 220 having a set of (first) wheels 228 and a set of (second) wheels 229, does not reasonably provide enablement for a seat unit 220 having a (first) wheel 228 and a (second) wheel 229. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make/use the invention commensurate in scope with these claims. In other words, applicant discloses that the seat unit requires a set of (first) wheels 228 and a set of (second) wheels 229 to operate. Therefore, it is unclear as to how the seat unit operates when it only has a (first) wheel 228 and a (second) wheel 229 especially since such structure was not properly disclosed in the instant specification.

7. Claims 3-5 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the use of a bathtub 12 having a set of wheels 13, does not reasonably provide enablement for a bathtub 12 having a wheel 13. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make/use the invention commensurate in scope with these claims. In other words, applicant discloses that the bathtub requires a set of wheels 13 to operate. Therefore, it is unclear as to how the bathtub operates when it only has a wheel 13 especially since such structure was not properly disclosed in the instant specification.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 6 and 7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Mukai (5393119).

Regarding claim 6, the Mukai reference discloses a bathing aid. The bathing aid includes a wheelchair (Fig. 9) separable into a seating unit (4) and a bogie unit (at 12), and a bathtub (at 2) having an open top. The bathing aid also includes a bathtub supporter (at 1,5,8,9,10,14,15) for supporting the bathtub while allowing the bathtub to change its orientation so that a direction of the open top changes between an upward direction (Fig. 3) and a frontward direction (Fig. 2). As schematically shown in Figures 2, 9 & 10, the bath aid also includes an expandable bogie-fastening element to which a predetermined part of the bogie unit is temporary fastened so that the element changes its position with the bathtub and retreats backward as the bathtub is in its forward receiving position. The bathtub also includes wheels located under the bottom thereof. The element moves forward when the wheel and the bathtub in the receiving position and exerts a pressure from above, and whereas the element retreat backward (Fig. 10) and released from the pressure exerted the wheels.

Regarding claim 7, the Mukai reference discloses a bathing aid. The bathing aid includes a wheelchair (Fig. 9) separable into a seating unit (4) and a bogie unit (at 12), and a bathtub (at 2) having an open top. As schematically shown in Figures 2 and 9-11, the seat unit of the wheelchair with the bather sitting thereon is transferred through the open top into the bathtub, and then hot water is supplied into the bathtub. The seat unit also includes a first wheel (wheel 13 on the lower portion as shown in Figure 4) running on the bogie-side rail located in the bogie and a second wheel (wheel 13 on the upper portion as shown in Figure 4) running on the bathtub-side guide (the upper guide portion labeled 4) as the seat unit is loaded into the bathtub.

10. Claims 10 and 11, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (5722099).

Regarding claim 10, the Suzuki et al. reference discloses a bathing aid. The bathing aid includes a wheelchair (1) separable into a seating unit (12) and a bogie unit (at 10), a bathtub (at 2) having an open top for receiving the bather, a tank (60) located above the bathtub (looking directly into Fig. 1), a water supply pipe (at 63c, 63b) with a supply valve (at 64), a drain pipe (at 63f) with a valve (at 66).

Regarding claim 11, the Suzuki et al. reference discloses a bathing aid. The bathing aid includes a wheelchair (1) separable into a seating unit (12) and a bogie unit (at 10), and a bathtub (at 2) having an open top for receiving the bather. The Suzuki et al. reference also discloses that the bathing aid also

includes a control section or input device for controlling the liquid injecting or filling mechanism to allow the liquid or water to fill the bathtub (col. 7, lines 21-28).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mukai (5393119) in view of Karhumaki (6076203).

The Mukai reference discloses a bathing aid. The bathing aid includes a wheelchair (Fig. 9) separable into a seating unit (4) and a bogie unit (at 12), and a bathtub (at 2) having an open top. As schematically shown in Figures 2 and 9-11, the seat unit of the wheelchair with the bather sitting thereon is transferred through the open top into the bathtub, and then hot water is supplied into the bathtub.

The Mukai reference DIFFERS in that it does not specifically include a cover as claimed. Attention, however, is directed to the Karhumaki reference which discloses a similar bathing aid that allows the bather to enter the bathtub through the open top (Fig. 2). The bathtub (10) also includes a cover (11) that is configured to have most of the open top of the bathtub closed, but has the face open (Fig. 9). Therefore, it would have been obvious to one of ordinary skill in

Art Unit: 3751

the art at the time the invention was made to have modified the Mukai reference by employing a cover configured to have most of the open top of the bathtub closed, but has the face open, in view of the teaching of Karhumaki, in order prevent the splashing of water out to the floor during use.

13. Claim 12, as presently understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (5722099).

The Suzuki et al. reference discloses a bathing aid. The bathing aid includes a wheelchair (1) separable into a seating unit (12) and a bogie unit (at 10), a bathtub (at 2) having an open top for receiving the bather, a tank (60), a water supply pipe (at 63c, 63b) with a supply valve (at 64), a bypass pipe (at 63f) with a valve (at 66) and a water supply controller (col.5, lines 51-53). Even though the Suzuki et al. reference does not specifically include a water temperature regulator as claimed, it, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Suzuki et al. reference by employing a water temperature regulator (if not already) in order to control the water temperature to the desired settings according to the bather especially since the use of a temperature regulator is known the bath aid art (see US 4,432,104 as evidence).

Allowable Subject Matter

14. Claim 2 is allowed over the prior art of record.
15. The following is an examiner's statement of reasons for allowance: none of the cited prior art teaches a bathing aid having, in conjunction with other limitations, a wheel

Art Unit: 3751

chair and a bathtub with a cover, wherein the cover including an overflow port located on the surface of the cover facing the bathtub.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

16. Claims 3-5 are free of the prior art of record. Claims 3-5, however, are rejected under 35 USC 112, 1st paragraph as discussed supra.

17. The following is an examiner's statement of reasons for indicating that claims 3-5 are free of the prior art of record: none of the cited prior art teaches a bathing aid having, in conjunction with other limitations, a wheel chair, a bathtub with wheels and a guide slope descending frontward, wherein the wheels is moving up or down along the guide slope which changes the orientation of the bathtub.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

18. Claims 8 and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Primary Examiner
Art Unit 3751